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12 SHALOM BARBOUR, individually and as representative of the  
13 ESTATE OF FRANCIS CARL DOUGLAS

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

SHALOM BARBOUR, individually  
and as representative of the ESTATE  
OF FRANCIS CARL DOUGLAS,

Plaintiff,

v.  
  
STATE OF CALIFORNIA;  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION (“CDCR”);  
RALPH DIAZ, in his individual  
capacity; ESTATE OF ROBERT  
STEVEN THARRATT;  
MONA HOUSTON, in his individual  
capacity; LOUIE ESCOBELL, in his  
individual capacity; CALIFORNIA  
INSTITUTION FOR MEN (“CIM”);  
MONA HOUSTON, in his individual  
capacity; and DOES 1 through 20,  
inclusive,

Defendants.

Case No.:

**COMPLAINT FOR CIVIL DAMAGES**

1. VIOLATIONS OF CIVIL RIGHTS –  
42 U.S.C. § 1983 (First, Eighth, and  
Fourteenth Amendments)
2. SUPERVISORY LIABILITY – 42  
U.S.C. § 1983
3. VIOLATION OF THE ADA, 42  
U.S.C. § 12101
4. VIOLATION OF THE BANE ACT,  
CAL. CIV. CODE § 52.1
5. VIOLATION OF THE UNRUH  
ACT, CAL. CIV. CODE § 51
6. NEGLIGENCE
7. VIOLATION OF CAL. GOVT.  
CODE § 845.6
8. WRONGFUL DEATH

**DEMAND FOR JURY TRIAL**

**COMES NOW PLAINTIFF, SHALOM BARBOUR**, individually and as representative of Plaintiff ESTATE OF FRANCIS CARL DOUGLAS, and alleges as follows:

## **INTRODUCTION**

“The basic concept underlying the Eighth Amendment is nothing less than the dignity of man.”

*-Trop v. Dulles*, 356 U.S. 86, 100 (1958)

1. This civil rights action seeks damages from Defendants for deliberately or, through gross recklessness or negligence, failing to protect 74-year-old FRANCIS CARL DOUGLAS (“DOUGLAS”), known by Defendants to have multiple serious underlying medical conditions that left him particularly at risk from the devastating COVID-19 virus.

2. Defendants should have protected DOUGLAS, a vulnerable inmate in their custody, from the known risks of COVID-19. Instead, Defendants made deliberate choices that needlessly exposed DOUGLAS to COVID-19, which directly resulted in his death. Defendants are liable for this callous, unjustified, and unconstitutional treatment of DOUGLAS, as well as for the pain and suffering they caused to the daughter DOUGLAS left behind.

## **JURISDICTIONAL ALLEGATIONS**

3. As this action is brought under 42 U.S.C. § 1983, this Court has jurisdiction over this case under its federal question jurisdiction pursuant to 28 U.S.C. § 1331.

4. As Plaintiff's claims brought under California state law arise out of the same transactions and occurrences, and out of a common nucleus of operative facts, as Plaintiff's federal question claims, this Court has jurisdiction over Plaintiff's California state law claims under its supplemental jurisdiction pursuant to 28 U.S.C. § 1337.

5. The incidents complained of herein occurred in San Bernardino County, State of California, within the territorial jurisdiction of this court, thus venue properly lies in this Court pursuant to 28 U.S.C. § 1391(b)(2).

## THE PARTIES

6. Plaintiff SHALOM BARBOUR (“Plaintiff”), hereinafter referred to as Plaintiff, is a natural person, who, at all times relevant herein resided in Roseville, California. Plaintiff is the natural and legal daughter of decedent FRANCIS CARL DOUGLAS, hereinafter referred to as “DOUGLAS.” On April 7, 2021, a Court of competent jurisdiction appointed Plaintiff as the qualified personal representative of the ESTATE OF FRANCIS CARL DOUGLAS. Plaintiff brings this action individually on behalf of herself, and as the representative of the ESTATE OF FRANCIS CARL DOUGLAS, pursuant to California Code of Civil Procedure sections 377.20, 377.30, *et seq.* and 377.60 *et seq.* The survival and wrongful death claims all survive the death of FRANCIS CARL DOUGLAS; all arise from the same wrongful act or neglect of another; and such claims are properly joined pursuant to California Code of Civil Procedure section 377.62.

7. Decedent DOUGLAS died in San Diego County, California on June 2, 2020. He had previously resided in San Bernardino County at the California Institution for Men. He was the natural and legal father of Plaintiff.

8. Defendant STATE OF CALIFORNIA was, all at times relevant to this action, the employer of all individual Defendants in this action, all of whom acted within the course and scope of their employment.

9. Defendant CALIFORNIA DEPARTMENT OF REHABILITATION (“CDCR”) was, at all times relevant to this action, a state agency as defined in California Government Code § 900.6.

10. Defendant CALIFORNIA INSTITUTE for MEN (“CIM”) was, at all times relevant to this action, a State of California prison under CDCR.

11. At all material times, Defendant RALPH DIAZ was the State of California Secretary, and the highest policymaking official, of CDCR. On information and belief, he was ultimately responsible for the oversight, management, policies, procedures, provision of services, and supervision of all employees and agents of CDCR, including employees

1 and agents of CIM. DIAZ was responsible for preventing and handling contagious  
2 disease outbreaks, such as COVID-19, at CIM. On information and belief, he was  
3 personally involved in the decision(s) to house medically-sensitive inmates in a large  
4 warehouse with inmates known to have tested positive for COVID-19, segregated only  
5 by a permeable shields and/or low, pony walls; permit inmates known to have tested  
6 positive for COVID-19 to commingle with medically sensitive inmates in common areas;  
7 fail to provide inmates with proper PPE; fail to enforce PPE-requirements on guards; and  
8 permit guards and/or other CDCR personnel to work at multiple wings of CIM ensuring  
9 maximum spread of the highly contagious COVID-19 virus throughout the institution. In  
10 so doing, DIAZ ignored the obvious and known dangers of housing inmates who had  
11 been exposed to COVID-19 together with medically-vulnerable inmates. On information  
12 and belief, DIAZ was personally responsible for failing to ensure CDCR employees  
13 and/or agents properly adhered to safety protocols and the manner in which officials  
14 caused, addressed, or failed to address the COVID-19 outbreak at CIM, which, on  
15 information and belief, was the actual and proximate cause of the injuries as alleged  
16 herein. At all material times, he was employed by the State of California and acted within  
17 the course and scope of that employment.

12. At all material times, R. STEVEN THARRATT, M.D., was the Medical  
13 Director and a policymaking official of CDCR who, on information and belief, was  
14 responsible for medical-related oversight, management, decisions, policies, procedures,  
15 provision of services, hiring and supervision of CDCR employees and agents, including  
16 those in CIM, and for preventing and handling contagious disease outbreaks at CIM. On  
17 information and belief, he was personally involved in the decision(s) to house medically-  
18 sensitive inmates in a large warehouse with inmates known to have tested positive for  
19 COVID-19, segregated only by a permeable shields and/or low, pony walls; permit  
20 inmates known to have tested positive for COVID-19 to commingle with medically  
21 sensitive inmates in common areas; fail to provide inmates with proper PPE; fail to  
22 enforce PPE-requirements on guards; and permit guards and/or other CDCR personnel to  
23

1 work at multiple wings of CIM ensuring maximum spread of the highly contagious  
2 COVID-19 virus throughout the institution. On information and belief, THARRATT was  
3 personally responsible for failing to ensure CDCR employees and/or agents properly  
4 adhered to safety protocols and the manner in which officials caused, addressed, or failed  
5 to address the COVID-19 outbreak at CIM, which, on information and belief, was the  
6 actual and proximate cause of the injuries as alleged herein. At all material times, he was  
7 employed by the State of California and acted within the course and scope of that  
8 employment. On information and belief, R. STEVEN THARRATT is deceased, thus  
9 Defendant ESTATE OF R. STEVEN THARRATT is being substituted in.

10 13. At all material times, Defendant Warden MONA HOUSTON was the  
11 Warden of CIM. In that capacity, HOUSTON was charged by law with and was  
12 responsible for the administration of the CDCR at CIM and the supervision, training, and  
13 hiring of persons, agents, and employees of persons working with CDCR. She is the  
14 official responsible for setting and enforcing the policies, customs, and practices of the  
15 CDCR with respect to CIM. She was ultimately responsible at CIM for the safety and  
16 health of all inmates and staff at CIM, and preventing and handling contagious disease  
17 outbreaks at CIM. On information and belief, he was personally involved in the  
18 decision(s) to house medically-sensitive inmates in a large warehouse with inmates  
19 known to have tested positive for COVID-19, segregated only by a permeable shields  
20 and/or low, pony walls; permit inmates known to have tested positive for COVID-19 to  
21 commingle with medically sensitive inmates in common areas; fail to provide inmates  
22 with proper PPE; fail to enforce PPE-requirements on guards; and permit guards and/or  
23 other CDCR personnel to work at multiple wings of CIM ensuring maximum spread of  
24 the highly contagious COVID-19 virus throughout the institution. On information and  
25 belief, HOUSTON was personally responsible for failing to ensure CDCR employees  
26 and/or agents properly adhered to safety protocols and the manner in which officials  
27 caused, addressed, or failed to address the COVID-19 outbreak at CIM, which, on  
28 information and belief, was the actual and proximate cause of the injuries as alleged

1 herein. HOUSTON had personal knowledge of DOUGLAS' medical history and/or  
2 increased susceptibility to COVID-19 and intentionally or recklessly disregarded the  
3 threat to DOUGLAS. At all material times, she was employed by the State of California  
4 and acted within the course and scope of that employment.

5 14. At all material times, LOUIE ESCOBELL was the Chief Executive Officer  
6 for Health Care of CIM. On information and belief, he was a policy-making official  
7 concerning medical care and health at CIM, and served as a principal advisor in  
8 institution-specific application of healthcare policies and procedures. On information and  
9 belief, he was also responsible for: planning, organizing, and coordinating the  
10 implementation of the healthcare delivery system at CIM; supervising healthcare  
11 programs managers responsible for providing adequate healthcare services to medically-  
12 vulnerable inmates; ensuring adequate protection and services are provided to disabled  
13 inmates; managing the overall healthcare operation; and preventing and handling  
14 contagious disease outbreaks at CIM. On information and belief, he was personally  
15 involved in the decision(s) to house medically-sensitive inmates in a large warehouse  
16 with inmates known to have tested positive for COVID-19, segregated only by a  
17 permeable shields and/or low, pony walls; permit inmates known to have tested positive  
18 for COVID-19 to commingle with medically sensitive inmates in common areas; fail to  
19 provide inmates with proper PPE; fail to enforce PPE-requirements on guards; and permit  
20 guards and/or other CDCR personnel to work at multiple wings of CIM ensuring  
21 maximum spread of the highly contagious COVID-19 virus throughout the institution. In  
22 so doing, ESCOBELL ignored the obvious and known dangers of housing inmates who  
23 had been exposed to COVID-19 together with medically-vulnerable inmates. On  
24 information and belief, ESCOBELL was personally responsible for failing to ensure  
25 CDCR employees and/or agents properly adhered to safety protocols and the manner in  
26 which officials caused, addressed, or failed to address the COVID-19 outbreak at CIM,  
27 which, on information and belief, was the actual and proximate cause of the injuries as  
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1 alleged herein. At all material times, he was employed by the State of California and  
2 acted within the course and scope of that employment.

3       15. The true names and identities of Defendant Does 1 through 20 are not  
4 presently known to Plaintiff. Plaintiff alleges that Defendant Does 1 through 20 were  
5 employed by the at the time of the conduct alleged herein. Plaintiff is informed and  
6 believes, and on that basis alleges, that each Defendant sued under such fictitious names  
7 is in some manner responsible for the wrongs and damages as alleged herein. Plaintiff  
8 does not know at this time the true names or capacities of said Doe Defendants, but will  
9 seek to amend this Complaint as soon as the true names and identities of Defendant Does  
10 1 through 20 have been ascertained.

11       16. All individual Defendants are sued in their individual capacities.

12       17. At all relevant times, each and every Defendant was an agent and/or  
13 employee of each and every other Defendant. In doing the things alleged in the causes of  
14 action stated herein, each and every Defendant was acting within the course and scope of  
15 this agency or employment, and was acting with the consent, permission, and  
16 authorization of each remaining Defendant. All actions of each Defendant as alleged  
17 herein were ratified and approved by every other Defendant or their officers or managing  
18 agents.

19       18. At all material times, each Defendant acted under color the laws, statutes,  
20 ordinances, and regulations of the State of California.

21       19. A proper and timely tort claim was presented to the STATE OF  
22 CALIFORNIA on behalf of Plaintiff and Decedent, pursuant to California Government  
23 Code section 910 *et seq.* and this action was thereafter timely filed within all applicable  
24 statutes of limitation.

25       20. In committing the acts alleged in this complaint, Defendants acted  
26 knowingly, maliciously, and with reckless or callous disregard for the constitutional  
27 rights of Plaintiff, justifying an award of punitive damages under federal and California  
28 law against each individual Defendant.

## **FACTUAL ALLEGATIONS**

## The Historical Fight to Provide Access to Medical Care in CDCR

21. It is well known that, when compared to the general population, incarcerated men and women generally experience worse mental and physical health. In 2005, data from the Bureau of Justice Statistics found that more than half of all prison and jail inmates had mental health problems. Moreover, inmates of both genders are more likely to have blood pressure, asthma, cancer, arthritis, and infectious diseases (such as tuberculosis, hepatitis C, and HIV).

22. CDCR's struggle in providing adequate medical care to this vulnerable population is well-documented, as it has been the central focus of decades of litigation. In January 2002, CDCR stipulated to a consent order in which the Court imposed a receivership on CDCR to administer and improve prisoner healthcare to resolve a class action lawsuit brought by inmates claiming CDCR was being deliberately indifferent to the serious medical needs of its inmates. In 2005, advocates presented evidence regarding the "incompetence and indifference" of prison medical staff and noted the "abysmal medical deliver system where medical care too often [sunk] below gross negligence to out-right cruelty." *Plata v. Schwarzenegger*, 603 F.3d 1088 (9th Cir. 2010) (internal citations omitted) ("Plata litigation"). Given these findings, the court ordered CDCR medical care system to be placed under the control of a court-appointed procedure. *Id.* In 2009, the court denied the State's motion to terminate the appointment of the Receiver; this order was upheld in the Ninth Circuit in April 2010. *Id.*

23. Thus, for over twenty years, CDCR has had ample notice of the deficiencies in the way it administers healthcare to the vulnerable inmate population, but has wholly failed to address the underlying issues. CDCR and high-ranking officials knew of the serious harm that resulted from its failure to properly administer medical care to inmates and knew that such failure rose to the level of a constitutional violation.

## **CDCR's Inadequate Response to COVID-19**

1       24. On March 4, 2020, California Governor Gavin Newsom proclaimed a State  
2 of Emergency in California.

3       25. On March 11, 2020, The World Health Organization declared COVID-19 a  
4 global pandemic, noting “the alarming levels of spread and severity” and the “alarming  
5 levels of inaction” in response to the virus.

6       26. On information and belief, on March 11, 2020, Defendants STEVEN  
7 THARRATT received a Memorandum from California Correctional Health Care  
8 Services warning officials of the highly contagious COVID-19 virus and the necessary  
9 precautions that needed to be adopted.

10       27. On or about March 17, 2020, Defendant RALPH DIAZ issued a statement to  
11 CDCR Staff stating: “We must stress to all of you the seriousness of the threat we are  
12 facing. As we are watching other countries, states, and cities combat the virus, understand  
13 that where they are today could be where we are tomorrow.” Thereafter, all transfers of  
14 inmates to California stopped for thirty days.

15       28. On or about March 19, 2020, Governor Newsom signed Executive Order N-  
16 33-20, directing all Californians to stay home to prevent the spread of the virus.

17       29. On March 22, 2020, CDCR issued a statement acknowledging that an inmate  
18 at California State prison, Los Angeles County, had tested positive for COVID-19, the  
19 first known positive test among CDCR inmates.

20       30. On March 23, 2020, the Centers for Disease Control and Prevention  
21 published an “Interim Guidance on Management of Coronavirus Disease 2019 (COVID-  
22 19) in Correctional and Detention Facilities.” The publication included specific  
23 instructions as to the handling of quarantined individuals that included: housing  
24 quarantined individuals in single cells with solid walls (i.e. not bars), housing a cohort of  
25 quarantined individuals in a large, well-ventilated cell with solid walls with at least six  
26 feet of personal space assigned to each individual in all directions within the larger space,  
27 and ensuring quarantined individuals were not permitted any movement outside of the  
28 cell.

1       31. On March 24, 2020, Governor Newsom issued Executive Order N-36-20,  
 2 further limiting transfer of inmates, calling for quarantining of inmates first arriving from  
 3 county jails, and educating staff and inmates regarding safeguards against Covid-19.  
 4 Thus, Defendants were aware of the dangers and risks associated with transferring  
 5 inmates and failing to properly quarantine potentially exposed persons.

6       32. On March 25, 2020, CDCR officials issued a video message to CDCR  
 7 employees and general population of inmates in which he states that he is “well aware  
 8 that the COVID virus didn’t begin inside the institution. It came from outside the  
 9 institution and was brought in. . . That’s why I’ve made the decisions I’ve made.” The  
 10 CDCR official also acknowledged the importance of “cleaning”, including in all common  
 11 areas, and isolating those who may be positive from the general population.

12       33. On April 2, 2020, Dr. Leah Rorvig, of University of California, San  
 13 Francisco, issued a training video specific to correctional staff regarding the safety  
 14 protocols that needed to be adopted to protect against COVID-19. The video included  
 15 information that the “most common” spread of COVID-19 was through aerosols and  
 16 droplets from sick persons; the first symptoms of COVID-19 included fever or chills,  
 17 cough, tiredness, or shortness of breath; older adults (sixty to seventy-nine years old) and  
 18 those with underlying medical condition including chronic obstructive pulmonary  
 19 disease, diabetes, heart disease, and high blood pressure were highly susceptible to  
 20 “getting seriously ill from COVID-19”; and the importance of social distancing, wearing  
 21 masks, and washing hands.

22       34. On April 6, 2020, Defendant THARRATT issued a Memorandum to all  
 23 CDCR staff regarding the importance of wearing personal protective equipment (“PPE”)  
 24 for staff and inmates.

25       35. On April 19, 2020, an inmate at CIM died from COVID-19. At this time,  
 26 inmates lived in large dormitory-style buildings with dozens of inmates housed in bunk  
 27 beds a mere thirty to forty inches apart. Moreover, as inmates shared toilets, urinals,  
 28 showers, and sinks with other dormitories, inmates were further exposed and improperly

1 quarantined from inmates outside their specific dormitory. The ventilation systems were  
2 equally deficient, particularly given the fact that use of air conditioning and fans is  
3 necessary given the temperatures in Chino, California. Such shared ventilation systems  
4 further spread the virus in the dormitories and throughout the entire CIM facility.

5 36. CIM thereafter announced fifty-nine other inmates had tested positive for  
6 COVID-19. On information and belief, Defendants installed inadequate plastic shields  
7 and low, “pony” walls that did nothing in the way of preventing the spread of aerosols  
8 among various cohorts or groups of inmates or separate the inmates who tested positive  
9 from those who remained negative. Moreover, on information and belief, no efforts were  
10 made to segregate inmates who tested positive from other inmates in the common areas  
11 of bathrooms, shower areas, and dayrooms. Therefore, Defendants’ policies and practices  
12 intentionally placed inmates known to have tested positive in positions where they  
13 commingled with healthy inmates.

14 37. Testing inmates for COVID-19 was wholly inadequate. On information and  
15 belief, CDCR officials, including HOUSTON and ESCOBELL, explicitly ordered the  
16 CIM inmates not to be tested.

17 38. Moreover, on information and belief, CIM Officials, including HOUSTON  
18 and ESCOBELL, instituted a policy permitting CDCR guards and staff to work  
19 throughout the prison during shifts or on different days, permitting CDCR officials to  
20 further spread the COVID-19 virus to all remaining areas of CIM.

21 39. In May 2020, as a result of Defendants’ reckless policies, CIM was the site  
22 of the largest COVID-19 outbreak in a California state prison. At least five inmates  
23 passed away from COVID-19 as the surge in CIM continued. Thus, Defendants were  
24 aware of how quickly COVID-19 could spread among an inmate population, and the  
25 known risk of death that such infections could cause.

26 40. Defendants’ handling of the COVID-19 pandemic was woefully inadequate:  
27 they knew of the substantial risks posed to vulnerable inmates and knew the measures  
28 they could have adopted to prevent the further spread of COVID-19. Defendants’ failure

1 to adopt such corrective measures can then only be deemed as grossly reckless and or  
2 deliberately indifferent to the high risk of death of its most vulnerable inmates.

3 **Francis Carl Douglas Contracts and Dies from COVID-19**

4 41. Francis Carl Douglas was one such vulnerable inmate, who had no other  
5 choice but to rely on Defendants for protection against the COVID-19 virus.

6 42. DOUGLAS, a veteran of the Navy after honorably serving his country for  
7 fifteen years, was sentenced in 2011. He had already served over approximately 85% of  
8 his sentence at the time of the COVID-19 outbreak. In fact, he was up for parole in or  
9 around March 2021. Given his exemplary conduct and good behavior as an inmate,  
10 Douglas reasonably believed he would be released.

11 43. In March 2020, DOUGLAS was 74-years old. He was previously diagnosed  
12 as obese and suffered from hypertension, aortic valve disease, and had survived a severe  
13 stroke that left him in a coma, requiring intubation and life support, for over four months.  
14 This prolonged intubation damaged his lungs and placed him at an increase susceptibility  
15 to pneumonia and respiratory infections. In 2018, he underwent an amputation of his toe  
16 as a result of experiencing acute osteomyelitis (bone infection) believed to be related to  
17 his diabetes.

18 44. Thus, on information and belief, Defendants and their agents knew or must  
19 have known that DOUGLAS had multiple high-risk factors for COVID-19, including,  
20 advanced age, obesity, diabetes, hypertension, and increased susceptibility to respiratory  
21 illness.

22 45. Despite knowing of his health conditions, Defendants housed Douglas in a  
23 dormitory with approximately 100 other inmates, all of whom suffered from some  
24 underlying health condition. On information and belief, inmates who started exhibited  
25 symptoms of COVID-19 were not tested, but rather placed on one side of the dormitory.  
26 These symptomatic inmates shared bathroom facilities and common space areas with  
27 non-symptomatic inmates.

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1       46. Defendants provided cloth masks to inmates, whom had to re-use the masks  
2 multiple times before they were able to be washed. Inmates were not provided hand  
3 sanitizer or other cleaning supplies, despite multiple notices and instructions provided by  
4 public health officials.

5       47. On information and belief, Defendants first tested Douglas on or about May  
6 12, 2020. He tested negative.

7       48. On May 18, 2020, Douglas, by and through a representative, sent a Petition  
8 for Compassionate Release to Warden Mona D. Houston. In this correspondence,  
9 Douglas disclosed that he had served the majority of his sentence, that he was a 74-year-  
10 old veteran, that he suffered from multiple underlying health conditions including  
11 diabetes and hypertension, and that his prior four-month coma left him at an increased  
12 susceptibility to pneumonia and respiratory infections.

13       49. On information and belief, Defendant Houston had personal knowledge of  
14 Douglas's medical history, was aware that Douglas risked serious injury or death if he  
15 contracted COVID-19, and intentionally, or with reckless disregard for Douglas's safety,  
16 failed to take adequate precautions to safeguard Douglas from contracting COVID-19.

17       50. After Douglas sent his Petition for Compassionate Release, Defendants  
18 transferred Douglas to a bunk where the previous inhabitant had recently tested positive.  
19 Douglas was made to stay in this bunk though Defendants had not disinfected the bed  
20 from its previous owner. Shortly thereafter, Douglas began exhibiting symptoms of  
21 COVID-19. On information and belief, Defendants documented Douglas's rising fevers  
22 and temperatures over the course of the next five to seven days, but failed to provide any  
23 other medical care.

24       51. Due to Defendants' wrongful decisions, acts, and deliberate omissions  
25 described herein, DOUGLAS contracted COVID-19.

26       52. DOUGLAS experienced multiple acute and painful symptoms, including  
27 body aches and fever, as a result of his COVID-19 infection. On information and belief,  
28 Douglas became severely ill to the point he could no longer leave his bed without

1 assistance. Douglas was left in his bed having soiled himself and covered in vomit. Still,  
2 Defendants failed to provide any additional medical care. Instead, Douglas relied on the  
3 assistance of his fellow inmates for basic care.

4 53. Despite knowing of DOUGLAS's underlying medical conditions and  
5 increased susceptibility, Defendants did not immediately hospitalize or, on information  
6 and belief, treat DOUGLAS.

7 54. Douglas was eventually transferred to TRI-CITY Medical Center, a hospital  
8 located over two hours away from CIM. Medical staff allowed Plaintiff to speak to  
9 Douglas via videoconference, but Douglas was too weak to carry a meaningful  
10 conversation.

11 55. On June 2, 2020, DOUGLAS passed away.

12 56. Each Defendants' deliberate indifference to DOUGLAS's safety and serious  
13 medical needs, along with the safety and serious medical needs of all CIM inmates and  
14 staff, and Defendants' other tortious, unconstitutional, and/or otherwise wrongful conduct  
15 caused DOUGLAS's death.

16 57. At all relevant times and, alternatively, the actions and omissions of each  
17 Defendant were intentional, wanton, willful, conscious-shocking, reckless, callous,  
18 malicious, or deliberately indifferent to Plaintiff's and Decedent's rights, grossly  
19 negligent, and/or negligent.

20 58. As a direct and proximate result of each Defendants' acts or omissions as set  
21 forth above, Plaintiff individually sustained the following injuries and damages  
22 including: the wrongful death of DOUGLAS; loss of support and familial relationships,  
23 including loss of love, companionship, comfort, affection, society, services, and solace;  
24 emotional distress including grief, sorrow, anxiety, worry, anger, humiliation, and  
25 indignity; loss of enjoyment of life; and other legally cognizable special and general  
26 damages.

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## CAUSES OF ACTION

## **FIRST CAUSE OF ACTION**

## BY PLAINTIFF

## **FIRST, FOURTH, AND EIGHTH AMENDMENT VIOLATIONS (42 U.S.C. § 1983)**

**(AGAINST DEFENDANTS DIAZ, ESTATE OF THARRATT, HOUSTON,  
ESCOBELL, AND DOES 1 THROUGH 20)**

59. Plaintiff incorporates, by reference, all the foregoing paragraphs of this Complaint as though fully set forth herein.

60. By the acts and omissions described above, Defendants DIAZ, ESTATE OF R. STEVEN THARRATT, M.D., HOUSTON, and THARRATT , and DOES 1-20, acting under the color of state law in their individual capacities, deprived DOUGLAS of the rights, privileges, and immunities secured by the First, Eighth, and Fourteenth Amendments by subjecting him, or through their deliberate indifference allowing others to subject him, to inhumane conditions of confinement and obviously unsafe conditions that created and increased DOUGLAS's exposure to a serious communicable disease, causing him to contract COVID-19. Defendants DIAZ, THARRATT, HOUSTON, and ESCOBELL interfered with DOUGLAS's right to familial association by failing to timely notify his family of his COVID-19 infection and/or hospitalization, by depriving him of the ability to consult with his family, and by causing his death.

61. The listed Defendants knew that, due to aggravating factors including age, diabetes, cardiovascular disease, and prolonged prior intubation during his coma, DOUGLAS faced significant risk of serious harm from exposure to COVID-19. Defendants each further had actual knowledge of the grave danger to inmates, staff, and the community posed by a potential, and by the actual, COVID-19 outbreak at CIM, and of the reasonable, necessary, and feasible care and public health mandates to prevent such an outbreak. Defendants further had a duty to provide DOUGLAS humane, safe, and

1 sanitary living conditions, including a duty to act to abate exposure to serious  
2 communicable diseases, including COVID-19.

3       62. The listed Defendants ignored, delayed, and/or denied to DOUGLAS  
4 urgently needed measures and care necessary to maintain reasonably safe conditions for  
5 him during his incarceration, to avoid a disastrous COVID-19 outbreak and his exposure  
6 to it, and to address his safety and serious medical needs. As a result of the Defendants'  
7 deliberate indifference to both DOUGLAS's safety and medical needs, Plaintiffs suffered  
8 damages and deprivation of constitutional rights, as described herein.

9       63. By the actions and omissions described above, the individually named  
10 Defendants violated 42 U.S.C. § 1983, depriving Plaintiffs and Decedent of the following  
11 well-settled constitutional rights that are protected by the First, Eighth, and Fourteenth  
12 Amendments to the U.S. Constitution: the right to be free from deliberate indifference to  
13 DOUGLAS's safety and medical needs while in state custody as an inmate, as secured by  
14 the Eighth Amendment; and the right to be free from wrongful government interference  
15 with familial relationships and Plaintiff's and DOUGLAS's right to companionship,  
16 society, and support of each other, as secured by the First and Fourteenth Amendments.

17       64. The listed Defendants are liable for their individual conduct and decisions,  
18 for their failures to intervene, prevent, or stop the constitutional violations by others when  
19 Defendants were in a position to so intervene when such violations were occurring, and  
20 for their supervisory failures that caused their subordinates to violate Plaintiff's and  
21 DOUGLAS's rights.

22       65. Defendants subjected Plaintiff to their wrongful conduct, depriving Plaintiff  
23 and DOUGLAS of the rights described herein, knowingly, maliciously, and with  
24 conscious and reckless disregard for whether the rights and safety of Plaintiff  
25 (individually and on behalf of DOUGLAS) and others would be violated by their acts  
26 and/or omissions.

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66. As a proximate result of the foregoing wrongful acts and/or omissions, Plaintiff sustained injuries and damages, as set forth above. Plaintiff is, therefore, entitled to general and compensatory damages in an amount to be proven at trial.

67. In committing the acts alleged above, the individually named Defendants and DOE Defendants acted maliciously, oppressively, and/or with reckless disregard for the rights and safety of Plaintiff, BARBOUR, and others, and by reason thereof, Plaintiff is entitled to punitive damages and penalties allowable under 42 U.S.C. § 1983, California Code of Civil Procedure section 377.20 et seq, and other state and federal law against the individual Defendants. Plaintiffs do not seek punitive damages against the STATE OF CALIFORNIA, CDCR, or CIM.

68. Plaintiffs are also entitled to reasonable costs and attorney's fees under 42 U.S.C. § 1988 and other applicable California codes and laws.

## SECOND CAUSE OF ACTION

## **SUPERVISORY LIABILITY (42 U.S.C. § 1983)**

**(AGAINST DEFENDANTS DIAZ, THARRATT, HOUSTON, ESCOBELL, AND  
DOES 1 THROUGH 20)**

69. Plaintiff incorporates, by reference, all the foregoing paragraphs of this Complaint as though fully set forth herein.

70. Plaintiffs allege, upon information and belief, the unconstitutional actions and/or omissions of the individually named Defendants and/or others acting on behalf of Defendants CDCR and CIM were pursuant to the following customs, policies, practices, procedures and official decisions of CDCR and/or CIM. Stated in the alternative, the following acts and/or omissions were made, directed, approved, encouraged, allowed, and/or ratified by listed policymaking officials for CDCR and/or CIM:

- a. To require, approve, allow, and/or encourage the transfer of inmates within CIM without proper testing, screening, distancing, masking, PPE, isolation or quarantine, or taking other appropriate precautions to prevent and limit

- 1 the introduction and spread of COVID-19 at CIM, with deliberate  
2 indifference to the rights and safety of inmates, staff, and others;
- 3 b. To refuse and/or fail to properly and adequately classify, isolate or  
4 quarantine, test, and/or monitor inmates who tested positive for COVID-19,  
5 were exposed or suspected of being exposed to COVID-19, or experienced  
6 symptoms consistent with COVID-19, with deliberate indifference to the  
7 rights and safety of inmates, staff, and others;
- 8 c. To deny inmates and staff at CIM access to appropriate PPE necessary to  
9 mitigate the risk of contracting COVID-19, with deliberate indifference to  
10 the rights and safety of inmates, staff, and others;
- 11 d. To reject and fail to institute legally required policies and procedures to  
12 prevent the spread of airborne infections, including COVID-19, with  
13 deliberate indifference to the rights and safety of inmates, staff, and others;
- 14 e. To refuse and fail to adequately screen CIM employees for COVID-19  
15 symptoms or other factors indicating a risk of infection before entering CIM  
16 and other CDCR facilities, and to require staff to work multiple shifts, with  
17 overtime, in different areas and structures, without necessary PPE, with  
18 deliberate indifference to the rights and safety of inmates, staff, and others;
- 19 f. To refuse and fail to acquire COVID-19 testing resources necessary to  
20 monitor and control the presence and spread of COVID-19 at CIM, and to  
21 refuse to facilitate the safe transfer of inmates within CIM or release of  
22 inmates from CIM, with deliberate indifference to the rights and safety of  
23 inmates, staff, and others;
- 24 g. To refuse and fail to institute, require, and enforce proper physical  
25 distancing and face-covering among staff and inmates to reduce the risk of  
26 COVID-19 exposure;
- 27 h. To refuse and fail to reduce the prison population at CIM, including but not  
28 limited to failing to expedite the release of nonviolent offenders, medically

vulnerable inmates, and those with short remaining incarceration terms, with deliberate indifference to the rights and safety of inmates, staff, and others;

- i. To require prison staff to work in unsafe conditions subjecting them to high risk of COVID-19 infection, including requiring certain staff to drive sick inmates known to be infected with Coronavirus to hospitals in close quarters in unsafe vehicles and without proper training, PPE, sanitization, or safety measures, with deliberate indifference to the rights and safety of inmates, staff, and others;
  - j. To require prison staff to work in different locations from shift to shift at CIM, thereby spreading Coronavirus to different parts of the prison, with deliberate indifference to the rights and safety of inmates, staff, and others;
  - k. To refuse to follow the advice, Orders, and mandates of public health experts and authorities to prevent the spread of COVID-19 at CIM; and
  - l. To refuse and fail to have and enforce necessary, appropriate, and lawful policies, procedures, and training programs to prevent or correct the unconstitutional conduct, customs, and procedures described in this Complaint and in subparagraphs (a) through (k) above, when the need for such was obvious, with deliberate indifference to the rights and safety of Plaintiffs, Decedent, and the public.

71. The above-described customs, policies, practices, procedures, and/or official decisions of CDCR and CIM, instituted and overseen by each of the individually-named Defendants, were a moving force and/or a proximate cause of the deprivations of Plaintiff's and DOUGLAS's constitutional rights, in violation of 42 U.S.C. § 1983, as set forth above in Count One.

72. The above-identified individual Defendants further failed to properly hire, train, instruct, monitor, supervise, evaluate, investigate, and discipline other individually named Defendants.

1       73. The unconstitutional actions, choices and/or conduct of the individually  
 2 named Defendants, DOES 1-20, and other CDCR and CIM personnel as described above,  
 3 were approved, tolerated, and/or ratified by policy making officers for CDCR and CIM,  
 4 including, but not limited to, Defendants DIAZ, THARRATT, HOUSTON, and  
 5 ESCOBELL , and DOES 1-20. Plaintiffs are informed and believe, and thereupon allege,  
 6 the details of this incident have been revealed to the individually named Defendants and  
 7 DOES 1-20, authorized policy makers within CDCR and/or CIM, and that the  
 8 individually named Defendants and DOES 1-20 have direct knowledge of the fact that  
 9 DOUGLAS and similarly situated inmates at CIM were subjected to highly unsafe  
 10 conditions with risk of COVID-19 and denied necessary care for their serious medical  
 11 needs with deliberate indifference to their rights and safety. Notwithstanding this  
 12 knowledge, each Defendant named in this Count approved of such conduct and decisions  
 13 by each other and by individuals under their supervision and oversight, and have made a  
 14 deliberate choice to endorse such conduct and decisions, and the basis for them, which  
 15 resulted in the death of DOUGLAS. By so doing, the Defendants named in this Count  
 16 have shown affirmative agreement with the conduct of other Defendants and other  
 17 employees/agents under their supervision, and have ratified the unconstitutional acts of  
 18 such individual Defendants, employees, and agents.

19       74. As a result of their conduct, Defendants are liable for Plaintiff's injuries,  
 20 either because they were integral participants in the misconduct, or because they failed to  
 21 intervene when they had the opportunity and duty to do so to prevent these violations.

22       75. Plaintiff alleges that the acts of the individual Defendants were willful,  
 23 malicious, intentional, oppressive, reckless, and/or were done in willful and conscious  
 24 disregard of Plaintiff's rights, welfare and safety, thereby justifying the awarding of  
 25 punitive and exemplary damages in an amount to be determined at time of trial.

26       76. As a direct and legal result of Defendants' acts and omissions, Plaintiff has  
 27 suffered damages, including, without limitation, pain and suffering, mental and emotional  
 28

1 distress, severe physical injuries, medical expenses, attorney's fees, costs of suit, and  
2 other pecuniary losses not yet ascertained.

3 **THIRD CAUSE OF ACTION**

4 **BY PLAINTFF**

5 **VIOLATION OF AMERICANS WITH DISABILITY ACT (42 U.S.C. § 12101)**  
6 **(AGAINST DEFENDANTS STATE OF CALIFORNIA, CDCR, AND CIM)**

7 77. Plaintiff incorporates, by reference, all the foregoing paragraphs of this  
8 Complaint as though fully set forth herein.

9 78. DOUGLAS was a "qualified individual," with a mental impairment that  
10 substantially limited his ability to care for himself and control his mental, medical or  
11 physical health condition as defined under the Americans with Disabilities Act (ADA),  
12 42 U.S.C. Sec. 12131 (2), under Section 504 of the Rehabilitation Act of 1973 (RH), 29  
13 U.S.C. Section 794 and Cal. Civil Code Sec. 51, et seq., and qualified as an individual  
14 with a disability under California law.

15 79. Defendants STATE OF CALIFORNIA, CDCR, AND CIM and its jails and  
16 are a place of public accommodation and a covered entity for purposes of enforcement of  
17 the ADA, 42 U.S.C. Sec. 12181 (2), under Section 794 of the Rehabilitation Act of 1973,  
18 and Cal. Civ. Code Sec.51, et seq., explicated by the regulations promulgated under each  
19 of these laws. On information and belief, Defendants herein receive federal assistance  
20 and funds.

21 80. Under the ADA, Defendants STATE OF CALIFORNIA, CDCR, AND CIM  
22 are mandated to "develop an effective, integrated, comprehensive system for the delivery  
23 of all services to persons with [disabilities] . . ." and to ensure "that the personal civil  
24 rights" of persons who are receiving services under its agencies are protected.

25 81. Congress enacted the ADA upon a finding, among other things, that "society  
26 has tended to isolate and segregate individuals with disabilities" and that such forms of  
27 discrimination continue to be "serious and pervasive social problems." 42 U.S.C. §  
28 12101(a)(2).

1       82. Defendants STATE OF CALIFORNIA, CDCR, AND CIM are mandated  
 2 under the ADA not to discriminate against any qualified individual on the basis of  
 3 disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
 4 advantages, or accommodations of any place of public accommodation.” 42 U.S.C.  
 5 Sec.12182(a). Defendants receive federal financial assistance for their jails, and therefore  
 6 must comply with the mandates of the Rehabilitation Act, Sec. 504, which specifies that  
 7 “program or activity” means all of the operations of a department, agency special purpose  
 8 district or other instrumentality of a State or of a local government.

9       83. Defendants STATE OF CALIFORNIA, CDCR, AND CIM violated the  
 10 ADA and RH and Cal. Civ. Code Sec.51 et seq., and deprived DOUGLAS of his  
 11 federally and state protected rights by: failing to make reasonable accommodations for  
 12 DOUGLAS’s disabilities, failing to provide access to medical and other appropriate  
 13 services to DOUGLAS, and placing DOUGLAS in a more acute risk for contracting  
 14 COVID-19 and for experiencing more severe symptoms of that deadly virus than non-  
 15 disabled inmates.

16       84. Defendants STATE OF CALIFORNIA, CDCR, AND CIM acted as  
 17 described in this Complaint despite knowing, at all relevant times, that DOUGLAS was a  
 18 qualified individual under the ADA and RA with disabilities that greatly aggravated the  
 19 risk of serious injury and death if he contracted the COVID-19 virus.

20       85. Further, all of Defendants’ actions, choices, and decisions were policies or  
 21 procedures, or a product thereof, instituted by Defendants STATE OF CALIFORNIA,  
 22 CDCR, and CIM that had a disparate impact on DOUGLAS due to his disabilities, in  
 23 violation of his rights under the ADA and RA.

24       86. Thus, due to Defendants’ failure to reasonably accommodate DOUGLAS’s  
 25 disabilities, and Defendants’ conduct and decisions that had a disparate impact on him  
 26 and other similarly disabled individuals, causing Mr. DOUGLAS to suffer greater injury  
 27 and indignity than other non-disabled inmates, Defendants effectively treated non-  
 28

disabled inmates more favorably than individuals with Mr. DOUGLAS's disabilities and high susceptibility to COVID-19.

3       87. As a direct and legal result of Defendants' accts and commissions, Plaintiff  
4 has suffered damages, including, without limitation, pain and suffering, mental and  
5 emotional distress, severe physical injuries, medical expenses, attorneys' fees, costs of  
6 suit, and other pecuniary losses not yet ascertained. Plaintiff is not seeking punitive  
7 damages against Defendants STATE OF CALIFORNIA, CDCR, and CIM.

## **FOURTH CAUSE OF ACTION**

**BY PLAINTIFF**

## **VIOLATION OF BANE ACT (CAL. CIV. CODE § 52.1)**

**(AGAINST DIAZ, THARRATT, HOUSTON, ESCOBELL, AND DOES 1  
THROUGH 20)**

88. Plaintiff incorporates, by reference, all the foregoing paragraphs of this Complaint as though fully set forth herein.

89. By their acts, omissions, customs, and policies, Defendants DIAZ, THARRATT, HOUSTON, ESCOBELL, and DOES 1-20, acting in concert/conspiracy, as described above, and with threat, intimidation, coercion, and/or with reckless disregard for their rights, violated Plaintiffs' and DOUGLAS's rights under California Civil Code § 52.1 and the following clearly established rights under the United States Constitution and California Constitution and law:

DOUGLAS's right to be free from deliberate indifference to his safety and serious medical needs while in custody as an inmate, as secured by the Eighth Amendment to the United States Constitution and the California Constitution, Article 1, Section 17; DOUGLAS's and Plaintiffs' right to be free from wrongful government interference with familial relationships and their right to companionship, society, and support of each other, as secured by the First and Fourteenth Amendments to the United States Constitution;

- 1 c. DOUGLAS's and Plaintiffs' right to have timely medical information, and to be able to
- 2 enjoy their right to familial relationships companionship, society, and support of each
- 3 other, as secured by Cal Penal Code § 5022 and Cal. Prob. Code §§ 4701 et seq. and
- 4 4717; and
- 5 d. The right to enjoy and defend life and liberty; acquire, possess, and protect property; and
- 6 pursue and obtain safety, happiness, and privacy, as secured by the California
- 7 Constitution, Article 1, Section 1.

8 90. Defendants' violations of Plaintiffs' and DOUGLAS's rights with deliberate  
9 indifference in and of themselves constitute violations of the Bane Act. Alternatively,  
10 separate from, and above and beyond, Defendants' attempted interference, interference  
11 with, and violation of Plaintiffs' and DOUGLAS's rights, Defendants violated Plaintiffs'  
12 and DOUGLAS's rights by the following conduct, among other conduct, constituting  
13 threat, intimidation, or coercion:

- 14 a. Intentionally and with deliberate indifference, choosing to place DOUGLAS at a highly  
15 increased risk of contracting a deadly communicable disease while he, as an inmate, was  
16 powerless to freely act to protect himself and mitigate that risk;
- 17 b. Intentionally and with deliberate indifference, violating Cal. Pen. Code § 5022 by failing  
18 to contact, or allow others to contact, Plaintiff thereby depriving DOUGLAS and Plaintiff  
19 of their rights to familial association protected by the First and Fourteenth Amendments  
20 of the United States Constitution;
- 21 c. Intentionally and with deliberate indifference, doing and/or permitting subparagraphs (a)  
22 – (b) when it was also obvious that in doing so, DOUGLAS's life was likely to end  
23 needlessly, and/or that Plaintiffs' rights as Decedent's family also would be violated.

24 91. Plaintiff alleges that the acts of the individual Defendants were willful,  
25 malicious, intentional, oppressive, reckless, and/or were done in willful and conscious  
26 disregard of Plaintiff's rights, welfare and safety, thereby justifying the awarding of  
27 punitive and exemplary damages in an amount to be determined at time of trial.

28

92. As a direct and legal result of Defendants' acts and commissions, Plaintiff has suffered damages, including, without limitation, pain and suffering, mental and emotional distress, severe physical injuries, medical expenses, attorneys' fees, costs of suit, and other pecuniary losses not yet ascertained.

## **FIFTH CAUSE OF ACTION**

**BY PLAINTIFF**

## **VIOLATION OF UNRUH ACT (CAL. CIV. CODE § 51)**

**(AGAINST DIAZ, THARRATT, HOUSTON, ESCOBELL, AND DOES 1  
THROUGH 20)**

93. Plaintiff incorporates, by reference, all the foregoing paragraphs of this Complaint as though fully set forth herein.

94. Plaintiff is informed and believe that the acts committed by Defendants against DOUGLAS, a disabled man, were motivated by his actual and/or perceived disability. Indeed, DOUGLAS was identified by CDCR as “medically vulnerable” and/or disabled. Therefore, Defendants wrongfully deprived Plaintiff and DOUGLAS of his right to be free from any violence, intimidation by threat of violence, committed against his person because of his actual and/or perceived disability in violation of Cal. Civ. Code § 51.7.

95. As a result of their conduct, Defendants are liable for DOUGLAS's injuries, either because they were integral participants in the misconduct, or because they failed to intervene when they had the opportunity and duty to do so to prevent these violations.

96. Plaintiff alleges that the acts of the individual Defendants were willful, malicious, intentional, oppressive, reckless, and/or were done in willful and conscious disregard of Plaintiff's rights, welfare and safety, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at time of trial.

97. As a direct and legal result of Defendants' acts and commissions, Plaintiff has suffered damages, including, without limitation, pain and suffering, mental and

1 emotional distress, severe physical injuries, medical expenses, attorneys' fees, costs of  
2 suit, and other pecuniary losses not yet ascertained.

3 **SIXTH CAUSE OF ACTION**

4 **BY PLAINTIFF**

5 **NEGLIGENCE**

6 **(AGAINST DIAZ, THARRATT, HOUSTON, ESCOBELL, AND DOES 1  
7 THROUGH 20)**

8 98. Plaintiff incorporates, by reference, all the foregoing paragraphs of this  
Complaint as though fully set forth herein.

10 99. At all material times, Defendants DIAZ, THARRATT, HOUSTON,  
11 ESCOBELL, and DOES 1-20 owed DOUGLAS the duty to act with due care in the  
12 execution and enforcement of any right, law, or legal obligation.

13 100. At all material times, each Defendant owed DOUGLAS the duty to act with  
14 reasonable care.

15 101. These general duties of reasonable care and due care owed to DOUGLAS by  
16 all Defendants include, but are not limited, to the following specific obligations:

- 17 a. To maintain humane living conditions for, and provide for the safety and  
18 serious medical needs of, DOUGLAS as a state inmate, including taking  
19 proper and adequate measures to abate the substantial risk of serious harm  
20 posed by exposure to a serious communicable disease; a)
- 21 b. To comply with Cal. Pen. Code § 5022, which requires that prison officials  
22 obtain and annually update a list of contacts from each inmate, and that  
23 prison officials take all reasonable means to contact individuals on an  
inmate's contact list in the event that inmate becomes seriously ill;
- 25 c. To comply with Cal. Prob. Code §§ 4701 et seq. and 4717, which protects  
26 the right of individuals to give instructions about their own health care, and  
27 to appoint a surrogate to make health care decisions on their behalf.
- 28 d. To refrain from abusing their authority granted to them by law; and,

1 e. To refrain from violating Plaintiffs' rights guaranteed by the United States  
2 and California Constitutions, as set forth above, and as otherwise protected  
3 by law.

4 102. As a direct and legal result of Defendants' acts and commissions, Plaintiff  
5 has suffered damages, including, without limitation, pain and suffering, mental and  
6 emotional distress, severe physical injuries, medical expenses, attorneys' fees, costs of  
7 suit, and other pecuniary losses not yet ascertained.

8 **SEVENTH CAUSE OF ACTION**

9 **VIOLATION OF GOVERNMENT CODE § 845.6**

10 **(AGAINST DIAZ, THARRATT, HOUSTON, ESCOBELL, AND DOES 1  
11 THROUGH 20)**

12 103. Plaintiff incorporates, by reference, all the foregoing paragraphs of this  
13 Complaint as though fully set forth herein.

14 104. By virtue of the foregoing, Defendants knew or had reason to know that  
15 DOUGLAS needed immediate medical care and additional medical attention. Defendants  
16 were on notice that he needed additional care, treatment, and pain medication. The failure  
17 to provide immediate medical care exacerbated DOUGLAS's injuries.

18 105. As a direct and legal result of Defendants' acts and commissions, Plaintiff  
19 has suffered damages, including, without limitation, pain and suffering, mental and  
20 emotional distress, severe physical injuries, medical expenses, attorneys' fees, costs of  
21 suit, and other pecuniary losses not yet ascertained.

22 **EIGHTH CAUSE OF ACTION**

23 **BY PLAINTIFF**

24 **WRONGFUL DEATH**

25 **(AGAINST DIAZ, THARRATT, DAVIS, BROOMSFIELD, CRYER, HOUSTON,  
26 ESCOBELL, AND DOES 1 THROUGH 20)**

27 106. Plaintiff incorporates by reference all the foregoing paragraphs of this  
28 Complaint as though fully set forth herein.

1 107. As the representative of the ESTATE OF FRANCIS CARL DOUGLAS,  
2 Plaintiff asserts a wrongful death claim against Defendants pursuant to section 377.60 et  
3 seq. of the California Code of Civil Procedure. This claim is based upon the fact that the  
4 negligent, reckless and wrongful acts and omissions of Defendants, as alleged herein,  
5 were a direct and legal cause of the death of DOUGLAS and the resulting damages to  
6 Plaintiff.

7       108. Plaintiff is informed and believes and thereon alleges that these acts of  
8 Defendants were willful, malicious, intentional, oppressive, reckless and/or were done in  
9 willful and conscious disregard of the rights, welfare and safety of DOUGLAS, thereby  
10 justifying the awarding of punitive and exemplary damages against the non-governmental  
11 entity Defendants, in an amount to be determined at the time of trial.

12        109. As a direct and legal result of the acts and omissions of Defendants, and  
13 each of them, Plaintiff has suffered damages, including, without limitation, loss of  
14 earnings and earnings capacity, loss of enjoyment of life, pain and suffering, emotional  
15 distress, medical expenses, funeral expenses, attorneys' fees, costs of suit, other  
16 pecuniary losses not yet ascertained and the loss of love, affection, society, and  
17 companionship of DOUGLAS.

## PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff seeks judgment against Defendants and DOES 1 through 20, each of them, in an amount according to proof, as follows:

1. For General Damages according to proof;
  2. For Special Damages according to proof;
  3. For Punitive Damages as provided by law against each individual Defendant;
  4. For Attorneys' Fees and costs of suit;
  5. For post-judgment interest; and

1           6. For any other relief that is just and proper.  
2  
3

4           DATED: June 2, 2022

5           **EMPLOYEE JUSTICE LEGAL GROUP,**  
6           **P.C.**

7           By:   
8

9  
10           Kaveh S. Elihu, Esq.  
11           Colleen M. Mullen, Esq.  
12           Attorneys for Plaintiff

13  
14           **DEMAND FOR JURY TRIAL**

15           Plaintiff demands a trial by jury on all claims as provided by federal law.

16  
17           DATED: June 2, 2022

18           **EMPLOYEE JUSTICE LEGAL GROUP,**  
19           **P.C.**

20           By:   
21

22           Kaveh S. Elihu, Esq.  
23           Colleen M. Mullen, Esq.  
24           Attorneys for Plaintiff